

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

DECISION AND ORDER
11-CR-121-A

NELSON PACHECO,

Defendant.

This case was referred to Magistrate Judge H. Kenneth Schroeder, Jr., for supervision of all pretrial proceedings. On January 17, 2012, defendant Nelson Pacheco filed a motion seeking suppression of physical evidence seized from 29 Hammerschmidt Street, Buffalo, New York. (Dkt. No. 50). After oral argument of the motion, on April 14, 2012, Magistrate Judge Schroeder issued a Report and Recommendation recommending that defendant's motion to suppress be denied. (Dkt. No. 115).

On November 9, 2012, defendant Pacheco filed objections to the Magistrate Judge's Report and Recommendation. (Dkt. No. 118). During oral argument, the Court directed the parties to submit supplemental briefing of issues raised in *United States v. Clark*, 638 F.3d 89 (2d Cir. 2011). The Court heard additional oral argument March 14, 2013.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a *de novo* determination of those portions of the Report and Recommendation to which

objections have been made. Upon *de novo* review and after reviewing the submissions of the parties and hearing oral argument, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, defendant's motion to suppress his written and oral statements is denied in all respects. The parties shall appear before this Court on April 22, 2013 at 9:30 a.m. for a status conference and/or meeting to set trial date.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE

DATED: April 19, 2013